

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

DONALD ALLEN GOSNEY,

Plaintiff,

v.

MICHAEL GOWER, et al.,

Defendants.

Case No. 16-1072-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on September 18, 2017. ECF 113. Defendants filed a motion for partial summary judgment. ECF 72. Judge Beckerman recommended that Defendants' motion be granted in part and denied in part. No party has filed objections.

Under the Federal Magistrates Act ("Act"), the court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C.

§ 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) (“There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate’s report to which no objections are filed.”); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review de novo magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, this Court follows the recommendation of the Advisory Committee and reviews Judge Beckerman’s Findings and Recommendation for clear error on the face of the record. No such error is apparent. Accordingly, the Court **ADOPTS** Judge Beckerman’s Findings and Recommendation, ECF 113. Defendants’ motion for partial summary judgment (ECF 72) is **GRANTED** in part and **DENIED** in part. Plaintiff’s remaining claims are: (1) the personal capacity claims against Defendant Gruenwald alleged in the First and Second Claims for Relief; (2) the personal capacity claims against all Defendants except Defendant Gower alleged in the Third Claim for Relief; (3) the official capacity claim against Defendant Gruenwald alleged in the Fourth Claim for Relief; and (4) the official capacity claims against all Defendants except Defendant Gower stated in the Fifth Claim for Relief.

IT IS SO ORDERED.

DATED this 12th day of October, 2017.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge